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MAR 28 2005

In re Application of
Anderson, Young, and Iger
Application No. 10/767,459
Filed: January 30, 2004
Attorney Docket No. P-6464-US2
For: SYSTEM AND METHOD FOR TREATING TISSUE

OFFICE OF PETITIONS

:
:
: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)
:

This is a decision on the renewed petition under 37 CFR 1.47(a) filed March 7, 2005

The petition under 37 CFR 1.47(a) is **dismissed**.

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(a).

The above-identified application was filed on January 30, 2004, without a proper oath or declaration. Accordingly, a "Notice to File Missing Parts of Nonprovisional Application" was mailed on June 15, 2004, requiring an executed oath or declaration, a surcharge for the late filing of the oath or declaration, and payment of the filing and claim fees. A petition under 37 CFR 1.47 was filed on November 9, 2004, along with a request for an extension of time within the third month. The petition was dismissed by a decision mailed January 5, 2005.

It is noted that the petition filed on November 9, 2004, was treated as petition filed pursuant to 37 CFR 1.47(b). In fact, the declaration filed on November 9, 2005, included three inventor signature blocks as opposed to the two inventor signature blocks found on the declaration filed with the original application papers. Because inventor Iger executed the declaration, the petition under 37 CFR 1.47 filed November 9, 2004, should have been treated pursuant to 37 CFR 1.47(a). The instant renewed petition is properly treated pursuant to 37 CFR 1.47(a), accordingly.

A grantable petition under 37 CFR 1.47(a) requires:

- (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings);
- (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
- (3) the petition fee,

- (4) a statement of the last known address of the non-signing inventor,

The instant petition lacks item (2) as set forth above.

As to item (2), further review of the declaration filed November 9, 2004, revealed that the mailing address for inventor Iger was not provided. It is noted that 37 CFR 1.62(c)(1) provides that:

(c) unless such information is supplied on an application data sheet in accordance with § 1.76, the oath or declaration must identify:

- (1) The mailing address, and the residence if an inventor lives at a location which is different from where the inventor customarily received mail, of each inventor . . .

No Application Data Sheet was found with the application papers, therefore; the declaration is required to provide a mailing address for all the inventors. The declaration is defective because no address was provided for inventor Iger.

Any renewed petition must be accompanied by a declaration identifying the mailing address of inventor Iger.

The Change of Correspondence Address form filed March 7, 2005, is noted and made of record.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents,
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

Telephone inquiries should be directed to the undersigned (571) 272-3222.



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